

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FRANCELIS CHIRINOS,

PLAINTIFF,

v.

**WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649 AND WAL-MART STORES, INC.,**

DEFENDANTS.

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CIVIL ACTION NO. _____

INDEX OF STATE COURT PLEADINGS AND FILING DATES

TAB	DOCUMENT	DATE
1.	State Court Docket Sheet of the County Court at Law No. 1, Dallas, County Texas for Cause No. CC-22-03618-A	08/11/2022
2.	Plaintiff's Original Petition	07/08/2022
3.	Citation Issued for Wal-Mart Stores Texas, LLC d/b/a Wal-Mart Supercenter #2649	07/08/2022
4.	Citation Issued for Wal-Mart Stores, Inc.	07/08/2022
5.	Return of Service for Wal-Mart Stores Inc.	07/14/2022
6.	Return of Service for Wal-Mart Stores db/a/ Wal-Mart Supercenter #2649	07/14/2022
7.	Wal-Mart Stores Texas, LLC's Original Answer	08/05/2022

TAB NO. 1

Case Information

CC-22-03618-A | FRANCELIS CHIRINOS vs. WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649, WAL-MART STORES, INC.

Case Number	Court	Judicial Officer
CC-22-03618-A	County Court at Law No. 1	BENSON, D'METRIA
File Date	Case Type	Case Status
07/08/2022	DAMAGES (COLLISION)	OPEN

Party

PLAINTIFF

CHIRINOS, FRANCELIS

Active Attorneys▼

Lead Attorney
TRUJILLO, JAMES
Retained

DEFENDANT

WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649

Address

SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201

Active Attorneys▼

Lead Attorney
DAVIS, DEREK S.
Retained

DEFENDANT

WAL-MART STORES, INC.

Address

SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201

Active Attorneys▼

Lead Attorney
DAVIS, DEREK S.
Retained

Events and Hearings

07/08/2022 NEW CASE FILED (OCA)

07/08/2022 ORIGINAL PETITION ▼

PLAINTIFF'S ORIGINAL PETITION

Comment

PLAINTIFF'S ORIGINAL PETITION

07/08/2022 ISSUE CITATION ▼

CITATION 2012

CITATION 2012

Comment

E-SERVE, ENV# 66184164

07/11/2022 CITATION (SERVICE)▼

Served

07/12/2022:51 PM

Anticipated Server

ATTORNEY

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

07/14/2022 5:21 PM

Served

07/12/2022:51 PM

Anticipated Server

ATTORNEY

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

07/14/2022 5:19 PM

07/14/2022 RETURN OF SERVICE ▼

WAL-MART STORES INC SERVED THROUGH REG AGENT-CT CORP SYSTEM

Comment

WAL-MART REG AGENT-CT CORP SYSTEM SERVE 7/12/2022 AT 2:51 PM

07/14/2022 RETURN OF SERVICE ▼

RETURN OF SERVICE

Comment

ON WAL-MART STORES OF TEXAS, LLC SERVE 7/12/2022 AT 2:51 PM

08/05/2022 ORIGINAL ANSWER - GENERAL DENIAL ▼

WALMART'S ORIGINAL ANSWER

Financial

CHIRINOS, FRANCELIS

Total Financial Assessment	\$366.00
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Total Payments and Credits	\$366.00
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7/8/2022	Transaction Assessment	\$366.00
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7/8/2022	CREDIT CARD - TEXFILE (CC)	Receipt # CV-2022- 06456	CHIRINOS, FRANCELIS	(\$229.00)
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7/8/2022	STATE CREDIT	(\$137.00)
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Documents

PLAINTIFF'S ORIGINAL PETITION

CITATION 2012

CITATION 2012

WAL-MART STORES INC SERVED THROUGH REG AGENT-CT CORP SYSTEM

RETURN OF SERVICE

WALMART'S ORIGINAL ANSWER

TAB NO. 2

CAUSE NO.

**FRANCELIS CHIRINOS,
PLAINTIFF**

VS.

**WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649 and WAL-MART STORES, INC.,
DEFENDANTS**

IN THE COUNTY COURT

AT LAW NO.

DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, FRANCELIS CHIRINOS, complaining of and about **WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 and WAL-MART STORES, INC.** ("Defendants") and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2. Pursuant to Chapter 47 of the Texas Rules of Civil Procedure, Plaintiff seeks a maximum recovery of over \$250,000.00, but not more than \$ 1,000,000,000.

PARTIES AND SERVICE

2. Plaintiff, **FRANCELIS CHIRINOS** is an individual whose address is 3502 W. Walnut Hill Ln #2008, Irving, Texas 75038.
3. Defendant **WAL-MART STORES OF TEXAS, LLC, D/B/A WAL-MART SUPERCENTER #2649** is a foreign limited liability company and whose registered agent, CT Corporation System may be served at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

Issuance of Citation is requested at this time.

4. Defendant **WAL-MART STORES, INC.**, is an Arkansas-based corporation that is incorporated in the state of Delaware and whose registered agent, CT Corporation System may be served 1999 Bryan Street, Suite 900, Dallas, Texas 75201. **Issuance of Citation is requested at this time**

JURISDICTION AND VENUE

5. The subject matter in controversy is within the jurisdictional limits of this court.
6. This court has jurisdiction over Defendants because said Defendants purposefully availed themselves of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants, and the assumption of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.
7. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendants to the State of Texas, thereby conferring specific jurisdiction with respect to Defendants.
8. Furthermore, Plaintiff would show that Defendants engaged in activities constituting business in the State of Texas as provided by section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in Texas.
9. Venue in Dallas County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

10. On or about June 26, 2022, Plaintiff FRANCELIS CHIRINOS was shopping with her husband and daughter. She was inside the entrance of Wal-Mart Supercenter #2649, near where the carts are stored. At that time, Defendants' employee was pushing a train of carts

with a machine. Because the employee was not paying attention, the front of the train of carts was going to hit Plaintiff and her 4 year old daughter. Plaintiff pushed her daughter out of the way to prevent her daughter from getting hit. However, the train of carts violently struck Plaintiff. As a result of the negligence of Defendants' employee, Plaintiff sustained severe injuries.

PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST DEFENDANTS

11. Plaintiff alleges that Defendants WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 and WAL-MART STORES, INC. were negligent in the hiring of the employee that was pushing the train of carts, with a machine, in that Defendants knew, or in the exercise of reasonable care should have known, that its employee was unfit or unqualified to push the train of carts while in the presence of patrons during store hours.
12. Plaintiff alleges, in addition and without waiving the foregoing, that Defendants WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 and WAL-MART STORES, INC. were negligent in the supervision of its employees in that Defendants knew, or in the exercise of reasonable care, should have known that its employee was unfit or unqualified for a position in which it was required to safely push shopping carts during business hours when patrons were on the premises.
13. Plaintiff alleges, in addition and without waiving the foregoing, that Defendants WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 and WAL-MART STORES, INC. owed a duty of reasonable care to Plaintiff, FRANCELIS CHIRINOS. Defendants negligently failed to comply with this duty when Defendants' employee hit Plaintiff with the front of the train of carts and was about to hit Plaintiff's four year old daughter, to wit:

- a. In that Defendants' employee failed to keep a proper lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
 - b. In that Defendants' employee was not pushing the train of the carts attentively while patrons were on the premises;
 - c. Failing to warn patrons of the negligent employee;
 - d. Failing to train, educate, test and instruct its workers;
 - e. Failure to adequately supervise;
 - f. In Defendants' employee failing to act as a reasonably prudent person would have under the same or similar circumstances.
14. Defendants' acts and omissions constitute negligence.
15. Defendants' breach of these duties directly and proximately caused Plaintiff's injuries.
- PLAINTIFF'S CLAIMS FOR PREMISES LIABILITY AGAINST DEFENDANTS**
16. In addition to, and without waiving the foregoing, the Plaintiff makes a premises liability claim against the Defendants, as detailed below.
17. At all relevant times herein, Defendants had such control over the premises in question that Defendants owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.
18. At all relevant times herein, Plaintiff was an "invitee," as classified under Texas law at the time of the incident in question. Plaintiff entered Defendants' premises in question for the mutual benefit of Plaintiff and Defendants and/or for a purpose connected with the business of Defendants. Defendants' employee had control of the area where Plaintiff was injured.
19. Defendants, Defendants' agents, and employees failed to maintain a safe environment by not properly moving shopping carts from one place to another and not adequately paying attention while using the cart pushing machine.

20. At all times pertinent herein, Defendants, Defendants' agents and employees, who were acting in the scope of their employment, are liable to Plaintiff for their negligent conduct toward the Plaintiff:

- a. In Defendant failing to maintain a safe environment by not safely moving shopping carts from one area to another while customers were present;
- b. In Defendant failing to have appropriate safety procedures for their employees and agents on how to move shopping carts from one area to another and how to operate a shopping cart pushing machine while customers are present, to prevent the sort of injuries sustained by Plaintiff;
- c. In Defendant, Defendant's employees and agents failing to use due and reasonable care to avoid creating the dangerous environment that caused Plaintiff severe injuries and damages;
- d. In Defendant failing to properly train and supervise its employees and agents to employees and/or agents failing to warn Plaintiff which proximately caused Plaintiff's injuries and damages;
- e. In Defendant, through its employee and/or agents, creating an unreasonable risk of harm by creating a dangerous condition thereby putting Defendant on notice because when an owner or occupier of a premise, or those for whose conduct it is responsible, creates a condition that poses an unreasonable risk of harm, an inference of knowledge may arise that Defendant knew or should have known about the risk of danger to Plaintiff. *Keetch v. Kroger*, 845 S.W.2d 262, 265 (Tex. 1992); *Robledo v. Kroger*, 597 S.W.2d 560 (Tex. Civ. App.—Eastland 1980, writ ref'd n.r.e.); *See Wal-Mart Stores, Inc. v. Diaz*, 109 S.W.3d 584, 589 (Tex. 2003); and

VI. RESPONDEAT SUPERIOR

21 At all relevant times, Defendants' negligent employees were acting in the scope of their employment with Defendants. Therefore, under the principle of respondeat superior, the masters are liable for their servant's torts.

VII. DAMAGES FOR PLAINTIFF

22. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was caused to suffer physical injuries, and to incur the following damages:

A. Reasonable medical care and expenses in the past;

B. Reasonable and necessary medical care and expenses which will in all

- reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
 - D. Physical pain and suffering in the future;
 - E. Mental anguish in the past;
 - F. Mental anguish in the future;
 - G. Loss of earnings in the past;
 - H. Impairment in the past;
 - I. Impairment in the future;
 - J. Loss of earning capacity;
 - K. Loss of earning capacity in the future; and
 - L. Past and future disfigurement.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,

LAW OFFICE OF TRUJILLO & SANCHEZ, P.C.

By: /s/ James D. Trujillo
James D. Trujillo
State Bar No. 24056453
Service Email: Faxes@972lawfirm.com
500 E. John Carpenter Fwy., Ste. 140
Irving, Texas 75062
Tel/Fax: (972) 529-3476
ATTORNEY FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

David Sanchez on behalf of James Trujillo
Bar No. 24056453
faxes@972lawfirm.com
Envelope ID: 66159305
Status as of 7/8/2022 4:21 PM CST

Associated Case Party: FRANCELIS CHIRINOS

Name	BarNumber	Email	TimestampSubmitted	Status
Raquel LeBlanc		raquel@972lawfirm.com	7/8/2022 4:06:00 PM	SENT
James Trujillo		faxes@972lawfirm.com	7/8/2022 4:06:00 PM	SENT

TAB NO. 3

**THE STATE OF TEXAS
CITATION**

CAUSE NO. CC-22-03618-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

“You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.” Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

FRANCELIS CHIRINOS
Plaintiff(s)

VS.

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649; WAL-MART
STORES, INC.**
Defendant(s)

filed in said Court on the 8th day of July, 2022, a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY
HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 11th day of July, 2022 A.D.

JOHN F. WARREN, Dallas County Clerk

By Chantel Crawford, Deputy
Chantel Crawford



ATTORNEY

**CITATION
PLAINTIFF'S ORIGINAL PETITION**

CC-22-03618-A

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, Texas

FRANCELIS CHIRINOS, *Plaintiff(s)*

VS.

WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649; WAL-MART STORES, INC.,
Defendant(s)

SERVE:

**WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649**

**SERVE THROUGH REGISTERED
AGENT**

**CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

**ISSUED THIS
11TH DAY OF JULY, 2022**

JOHN F. WARREN, COUNTY CLERK
BY: CHANTEL CRAWFORD, DEPUTY

Attorney for Plaintiff

JAMES TRUJILLO
500 E JOHN CARPENTER FWY
STE 140
IRVING TX 75062
972-529-3476

**NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK**

OFFICER'S RETURN

CC-22-03618-A County Court at Law No. 1

FRANCELIS CHIRINOS vs. WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649, WAL-MART STORES, INC.

ADDRESS FOR SERVICE:
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Fees:

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ .m., and executed in _____ County, Texas by delivering to WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

_____	_____	_____
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

_____ and the cause or failure to execute this process is:

_____ and the information received as to the whereabouts of said defendant(s) being:

Serving Petition and Copy \$ _____, Officer

Total \$ _____, County, Texas

By: _____, Deputy

_____, Affiant

TAB NO. 4

**THE STATE OF TEXAS
CITATION**

CAUSE NO. CC-22-03618-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

**WAL-MART STORES, INC.
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

“You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.” Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

FRANCELIS CHIRINOS
Plaintiff(s)

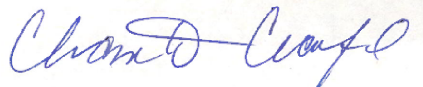
VS.

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649; WAL-MART
STORES, INC.**
Defendant(s)

filed in said Court on the 8th day of July, 2022, a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY
HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 11th day of July, 2022 A.D.

JOHN F. WARREN, Dallas County Clerk

By , Deputy
Chantel Crawford



ATTORNEY

**CITATION
PLAINTIFF'S ORIGINAL PETITION
CC-22-03618-A**

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, Texas

FRANCELIS CHIRINOS, *Plaintiff(s)*

VS.

WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649; WAL-MART STORES, INC.,
Defendant(s)

SERVE:

**WAL-MART STORES, INC.
SERVE THROUGH REGISTERED
AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

**ISSUED THIS
11TH DAY OF JULY, 2022**

JOHN F. WARREN, COUNTY CLERK
BY: CHANTEL CRAWFORD, DEPUTY

Attorney for Plaintiff

JAMES TRUJILLO
500 E JOHN CARPENTER FWY
STE 140
IRVING TX 75062
972-529-3476

**NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK**

OFFICER'S RETURN

CC-22-03618-A County Court at Law No. 1

FRANCELIS CHIRINOS vs. WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649, WAL-MART STORES, INC.

ADDRESS FOR SERVICE:
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Fees:

Came to hand on the ____ day of _____, 20____, at ____ o'clock ____m., and executed in _____ County, Texas by delivering to WAL-MART STORES, INC. in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

_____ and the cause or failure to execute this process is:

_____ and the information received as to the whereabouts of said defendant(s) being:

Serving Petition and Copy	\$ _____	_____, Officer
Total	\$ _____	_____, County, Texas
		By: _____, Deputy
		_____, Affiant

TAB NO. 5

**THE STATE OF TEXAS
CITATION**

CAUSE NO. CC-22-03618-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

**WAL-MART STORES, INC.
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

FRANCELIS CHIRINOS
Plaintiff(s)

VS.

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649; WAL-MART
STORES, INC.**
Defendant(s)

filed in said Court on the 8th day of July, 2022, a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY
HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 11th day of July, 2022 A.D.

JOHN F. WARREN, Dallas County Clerk

By Chantel Crawford, Deputy
Chantel Crawford



ATTORNEY

**CITATION
PLAINTIFF'S ORIGINAL PETITION**

CC-22-03618-A

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, Texas

FRANCELIS CHIRINOS, *Plaintiff(s)*

VS.

WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649; WAL-MART STORES, INC.,
Defendant(s)

SERVE:

**WAL-MART STORES, INC.
SERVE THROUGH REGISTERED
AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

**ISSUED THIS
11TH DAY OF JULY, 2022**

JOHN F. WARREN, COUNTY CLERK
BY: CHANTEL CRAWFORD, DEPUTY

Attorney for Plaintiff

JAMES TRUJILLO
500 E JOHN CARPENTER FWY
STE 140
IRVING TX 75062
972-529-3476

NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

OFFICER'S RETURN

CC-22-03618-A County Court at Law No. 1

FRANCELIS CHIRINOS vs. WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649, WAL-MART STORES, INC.

ADDRESS FOR SERVICE:

SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Fees:

Came to hand on the 11th day of July, 20 22, at 12 o'clock P.m., and executed in Dallas County, Texas by delivering to WAL-MART STORES, INC. in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name

Date/Time

Place, Course and Distance from Courthouse

Walmart Stores of Texas, LLC By Serving Registered Agent CT Corporation System (Tierica Williams)
7/12/2022 @ 2:54pm 1999 Bryan Street Suite #900 Dallas, Texas 75201

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Serving Petition and Copy \$ _____

Total \$ _____

Crystal Strong, Officer

Dallas, County, Texas

Crystal Strong - PSC-197112 exp. 3/31/23, Deputy

_____, Affiant

Crystal Strong
SWORN TO AND SUBSCRIBED BEFORE ME
ON THIS 13 DAY OF July 2022

x Carrie M. Dean



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 66342260

Status as of 7/15/2022 3:01 PM CST

Associated Case Party: FRANCELIS CHIRINOS

Name	BarNumber	Email	TimestampSubmitted	Status
James Trujillo		faxes@972lawfirm.com	7/14/2022 5:19:55 PM	SENT
Raquel LeBlanc		raquel@972lawfirm.com	7/14/2022 5:19:55 PM	SENT

TAB NO. 6

**THE STATE OF TEXAS
CITATION**CAUSE NO. CC-22-03618-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649
SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

FRANCELIS CHIRINOS
Plaintiff(s)

VS.

**WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649; WAL-MART
STORES, INC.**
Defendant(s)

filed in said Court on the 8th day of July, 2022, a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY
HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 11th day of July, 2022 A.D.

JOHN F. WARREN, Dallas County Clerk

By Chantel Crawford, Deputy
Chantel Crawford**ATTORNEY****CITATION****PLAINTIFF'S ORIGINAL PETITION****CC-22-03618-A**IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, TexasFRANCELIS CHIRINOS, *Plaintiff(s)*

VS.

WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649; WAL-MART STORES, INC.,
*Defendant(s)***SERVE:****WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649
SERVE THROUGH REGISTERED
AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201****ISSUED THIS
11TH DAY OF JULY, 2022**JOHN F. WARREN, COUNTY CLERK
BY: CHANTEL CRAWFORD, DEPUTY

Attorney for Plaintiff

JAMES TRUJILLO
500 E JOHN CARPENTER FWY
STE 140
IRVING TX 75062
972-529-3476NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

OFFICER'S RETURN

CC-22-03618-A County Court at Law No. 1

FRANCELIS CHIRINOS vs. WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649, WAL-MART STORES, INC.

ADDRESS FOR SERVICE:

SERVE THROUGH REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Fees:

Came to hand on the 11th day of July, 20 22, at 1 o'clock P.m., and executed in Dallas County, Texas by delivering to WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
Wal-Mart Stores of Texas, LLC By Serving Registered Agent CT Corporation System (Tierica Williams)	7/12/2022 @ 2:51pm	1999 Bryan Street Suite 900 Dallas, Texas 75201

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

Serving Petition and Copy \$ _____

Total \$ _____

Crystal Strong, Officer

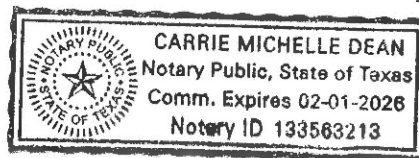
Dallas, County, Texas

By: [Signature] PSC 19712 exp. 3/31/23, Deputy

_____, Affiant

Crystal Strong
SWORN TO AND SUBSCRIBED BEFORE ME
ON THIS 13 DAY OF July 2022

x Carrie M. Dean



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Envelope ID: 66342326

Status as of 7/15/2022 3:05 PM CST

Associated Case Party: FRANCELIS CHIRINOS

Name	BarNumber	Email	TimestampSubmitted	Status
James Trujillo		faxes@972lawfirm.com	7/14/2022 5:21:40 PM	SENT
Raquel LeBlanc		raquel@972lawfirm.com	7/14/2022 5:21:40 PM	SENT

TAB NO. 7

CAUSE NO. CC-22-03618-A

**FRANCELIS CHIRINOS,
PLAINTIFF,**

v.

**WAL-MART STORES OF TEXAS, LLC
D/B/A WAL-MART SUPERCENTER
#2649 AND WAL-MART STORES, INC.,
DEFENDANTS.**

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IN THE COUNTY COURT

AT LAW NO. 1

DALLAS COUNTY, TEXAS

**DEFENDANT WAL-MART STORES TEXAS, LLC'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, WAL-MART STORES TEXAS, LLC (incorrectly named WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649 AND WAL-MART STORES, INC.) ("Defendant") in the above-styled and numbered cause, and files this Original Answer to Plaintiff's Original Petition, and in support hereof would respectfully show the Court the following.

**I.
GENERAL DENIAL**

1. Defendant denies each and every, all and singular, the material allegations made and contained in the Original Petition and any petition which Plaintiff may hereinafter file by way of amendment or supplement, and, in accordance with Texas law, demands that Plaintiff prove by a preponderance of the credible evidence each and every such allegation made and contained therein, or the prevailing standard of proof required by applicable law.

II.
AFFIRMATIVE DEFENSES

2. Pleading further, and in the affirmative, Defendant asserts the doctrine of comparative causation as set forth in Chapter 33 of the TEXAS CIVIL PRACTICE & REMEDIES CODE, which may bar any recovery by Plaintiff, or may in the alternative reduce the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

3. Pleading further, if necessary, Plaintiff failed to mitigate Plaintiff's damages which may have resulted from the occurrence made the basis of this lawsuit.

4. In the alternative, and without waiving the foregoing, Defendant affirmatively pleads the defense set forth in TEXAS CIVIL PRACTICE & REMEDIES CODE § 18.091, requiring Plaintiff to prove Plaintiff's loss of earning and/or loss of earning capacity in the form which represents Plaintiff's net loss after reduction for income tax payments or unpaid tax liability on said loss or earning claim pursuant to any federal income tax law. *Id.* Additionally, Defendant requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal to state income taxes.

5. Additionally, to the extent Plaintiff's medical expenses exceed the amount actually paid on Plaintiff's behalf to Plaintiff's medical providers, Defendant asserts the statutory defense set forth in § 41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE. Thus, recovery of medical or health care expenses incurred by Plaintiff, if any, are limited to the amount actually paid or incurred by or on behalf of Plaintiff.

6. Pleading further, Defendant would show that it is entitled to a credit or offset equal to the amount of any and all sums that the Plaintiff has received, or may hereinafter receive, by way of settlement with any person or party. Alternatively, pursuant to Rule 48 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant contends that it is entitled to a proportionate

reduction of any damages found against it based upon the percentage of negligence attributable to the settling tortfeasor, cross claimant, designated third party, or other party to this case.

7. Pleading further, and in the affirmative, Defendant alleges Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in § 304.101 of the TEXAS FINANCE CODE and § 41.007 of the TEXAS CIVIL PRACTICE & REMEDIES CODE.

8. Pleading further, and in the affirmative, Defendant invokes §41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE concerning Plaintiff's claim for the recovery of health care expenses and other related damages, past and future.

9. Pleading further, and in the affirmative, Defendant asserts the doctrine of proportionate responsibility of TEXAS CIVIL PRACTICE & REMEDIES CODE Chapter 33, which may bar any recovery by Plaintiff, or may in the alternative, reduce the amount of recovery by Plaintiff based on Plaintiff's own percentage of fault.

10. Pleading further, and in the affirmative, Defendant would show that the alleged occurrence made the basis of this lawsuit was the result of circumstances and/or events that were not of Defendant's own creation. Defendant would further show that it acted just as a similar situated reasonable premises owner would have acted under the same or similar circumstances surrounding the matters made the basis of this lawsuit.

11. Pleading further, and in the affirmative, Defendant alleges that the injuries and damages alleged by Plaintiff may be due to Plaintiff's own negligence and recklessness in that Plaintiff's failure to exercise ordinary care proximately caused, in whole or in part, the alleged injuries and damages complained of by Plaintiff. Plaintiff's acts and omissions, whether taken together or separately, may be the sole proximate cause, or a proximate cause of the injuries and damages Plaintiff has alleged in this lawsuit. Any recovery by Plaintiff is therefore barred, or

alternatively should be reduced in accordance with the applicable law.

12. Pleading further, and in the affirmative, the injuries pled by Plaintiff may have been caused, in whole or in part, by superseding and/or intervening causes, including preexisting conditions and/or injuries and subsequently occurring injuries and/or conditions that were not Defendant's own creation.

13. Pleading further, if necessary, Plaintiff's claims may have been caused by an unavoidable accident, Act of God, or an occurrence without any fault on the part of Defendant.

14. Pleading further and in the alternative, Defendant alleges that any claims for or recovery of exemplary damages against it violates the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, and Sections 3, 13 and 19 of Article I of the Texas Constitution, because such claims as made are arbitrary, unreasonable, and violate Defendant's rights to due process and equal protection of the laws.

15. Pleading further and in the alternative, to the extent any recovery of exemplary damages is found to be constitutional, Defendant invokes all the limitations upon damages and exemplary damages contained in Chapter 41 of the Texas Civil Practice & Remedies Code, both in terms of the maximum amount of damages that can be awarded pursuant to that statute and the procedural safeguards guaranteed by the referenced provisions.

16. Pleading further and in the alternative, Defendant also invokes all other applicable state law, federal law, statutory and/or common-law caps or limitations on exemplary damages.

III. NOTICE OF INTENT

17. Defendant further places Plaintiff on notice pursuant to TEXAS RULE OF CIVIL PROCEDURE 193.7 that it may use in pretrial proceedings or at trial any and all documents and tangible things produced in discovery by plaintiff.

IV.
DEMAND FOR JURY TRIAL

18. In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant hereby demands a trial by jury.

V.
SERVICE CONTACT

19. Pursuant to TEXAS RULE OF CIVIL PROCEDURE 21, 21(a) and 21(b), Defendant provides notice that the electronic service of any documents filed in this matter shall not be perfected unless each of the following individuals are served with the filing at their respective email address: Derek Davis – Derek.Davis@cooperscully.com, James Kuritzkes – James.Kuritzkes@cooperscully.com, Kim Denton - Kim.Denton@cooperscully.com, and Heather Savant – Heather.Savant@cooperscully.com.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit against Defendant, that Defendant be discharged, and that the Court grant such other and further relief, both general and special, at law and in equity to which Defendant may be justly entitled.

Respectfully submitted,

COOPER & SCULLY, P.C.

By: /s/ Derek S. Davis

DEREK S. DAVIS

Texas Bar No. 00793591

Email: Derek.Davis@CooperScully.com

JAMES KURITZKES

Texas Bar No. 24120956

Email: James.Kuritzkes@CooperScully.com

900 Jackson Street, Suite 100

Dallas, Texas 75202

Telephone: (214) 712-9500

Facsimile: (214) 712-9540

ATTORNEY FOR DEFENDANT

WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of August, 2022, a true and correct copy of the foregoing document was served on counsel of record *via* the Court's ECF filing service as follows:

James D. Trujillo

State Bar No. 24056453

Service Email: Faxes@972lawfirm.com

LAW OFFICE OF TRUJILLO & SANCHEZ, P.C.

500 E. John Carpenter Fwy., Ste. 140

Irving, Texas 75062

(972) 529-3476 Tel/Fax

ATTORNEY FOR PLAINTIFF

/s/ Derek S. Davis

DEREK S. DAVIS

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Heather Savant on behalf of Derek Davis

Bar No. 793591

heather.savant@cooperscully.com

Envelope ID: 67030087

Status as of 8/9/2022 10:10 AM CST

Associated Case Party: FRANCELIS CHIRINOS

Name	BarNumber	Email	TimestampSubmitted	Status
James Trujillo		faxes@972lawfirm.com	8/5/2022 5:09:41 PM	SENT
Raquel LeBlanc		raquel@972lawfirm.com	8/5/2022 5:09:41 PM	SENT

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Heather Savant on behalf of Derek Davis

Bar No. 793591

heather.savant@cooperscully.com

Envelope ID: 67030087

Status as of 8/9/2022 10:10 AM CST

Associated Case Party: WAL-MART STORES OF TEXAS, LLC D/B/A WAL-MART SUPERCENTER #2649

Name	BarNumber	Email	TimestampSubmitted	Status
Derek Davis		derek.davis@cooperscully.com	8/5/2022 5:09:41 PM	SENT
James Kuritzkes		james.kuritzkes@cooperscully.com	8/5/2022 5:09:41 PM	SENT
Heather Savant		heather.savant@cooperscully.com	8/5/2022 5:09:41 PM	SENT
Kim Denton		kim.denton@cooperscully.com	8/5/2022 5:09:41 PM	SENT